

REMARKS

Claims 1-41 are pending and stand rejected. Claims 1, 17 and 31 are amended herein. Claims 34-36 are canceled. Support for the claim amendments is provided by the specification at, e.g., page 5, lines 3-6 and page 33, lines 7-10. No new matter is added by way of these amendments. Applicants respectfully request entry of the claim amendments and reconsideration in view of the following remarks. Claims 1-33 and 37-41 are now pending.

Formal Matters

No basis has been provided for the rejection of claims 27, 28, 33 and 37-41. Applicants respectfully request clarification from the Examiner as to the grounds for rejection of these claims.

Rejection Under 35 U.S.C. § 103

Claims 1-26 and 29-32 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over WO 98/34644 ('644 application). Applicants traverse the rejections for reasons of record, as well as at least the following.

As amended, the claims relate to a two-step method, comprising exposing a tissue area containing a photosensitizing agent to normal dose PDT treatment, followed immediately by exposing a tissue area that overlaps with or is adjacent to the treated area to low dose light PDT treatment for a time sufficient to reduce or treat inflammation arising from said normal dose PDT treatment. In contrast, the '644 application reports that a single low-dose PDT may be used to reduce or prevent inflammation in an injured or pre-injured tissue in the absence of any other photodynamic therapy. *See, e.g.*, the '644 application at page 17, lines 3-19. The '644 application fails to teach or suggest a two-step method, wherein a second, low-dose PDT treatment can reduce or treat inflammation caused by an earlier, normal dose PDT.

The Examiner asserts that WO 98/34644 teaches a method of reducing inflammation by bringing an injured or "pre-injured" tissue into contact with a photosensitizing agent and exposing the tissue to light having a wavelength absorbed by the photosensitizing agent for a time sufficient

to reduce or prevent inflammation. The Examiner acknowledges the reference does not teach a method of reducing inflammation in tissues exposed to normal dose PDT, or tissues overlapping such treated tissues. Nevertheless, the Examiner asserts that it would have been obvious to use low-dose PDT to treat inflammation in these tissues, “considering that the tissues overlapping with the tissues subjected to photodynamic therapy are considered to be pre-injured tissues,” as allegedly taught by the reference (see Office action at page 3). Applicants respectfully disagree.

As described in the reference, “injured tissue” relates to tissue injured by surgery or accidental injury, such as skin lacerations or burns. *See* ‘644 application at, e.g., page 1, lines 5-9. Tissue injury may also be caused by physical, chemical or biological agents. *See* ‘644 application at, e.g., page 19, lines 6-9. The reference does not specifically define “pre-injured tissue.” However, based on the foregoing description of “injured tissue,” a person of skill in the art would reasonably understand a “pre-injured tissue” to be a tissue treated with a photosensitizing agent prior to a planned “injury” (e.g., surgery), as one of skill in the art would not logically expect to pretreat tissues that are *accidentally* injured. Applicants respectfully submit that a person of skill in the art would not have understood a “pre-injured tissue” as described in the ‘644 application to include tissue that is overlapping with or adjacent to the site of tissue treated with normal dose PDT.

Thus, contrary to the Examiner’s assertion, one skilled in the art would have had no motivation to employ the teachings of the ‘644 application in a two-step method to treat tissue that overlaps with, or is adjacent to, tissue treated with normal dose PDT, as claimed. Moreover, given that normal dose PDT is known to cause inflammation, one of skill in the art would not have had a reasonable expectation of success that further treatment of already inflamed tissues with additional PDT, albeit at a lower light dose, would be beneficial to treat inflammation.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **docket No. 273012011800**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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